

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Brittany M. Mischel,

Civil No. 0:14-CV-03170-DWF-JSM

Plaintiff,

ANSWER

vs.

Aargon Agency, Inc.,

Defendant.

COMES NOW Defendant AARGON AGENCY, INC., and answers the Complaint filed by Plaintiff BRITTANY M. MISCHEL as follows:

ANSWER

Except as hereafter admitted or qualified, the Defendant denies each and every allegation of the Complaint.

JURISDICTION

1. The allegations contained in paragraph 1 are legal conclusions to which no response is required, and are therefore denied. Defendant denies that it engaged in illegal conduct.
2. The allegations contained in paragraph 2 are legal conclusions to which no response is required, and are therefore denied. Defendant denies that it engaged in illegal conduct.
3. Defendant admits it transacts business in Minnesota, but is without information or knowledge sufficient to admit or deny the remaining allegations contained in paragraph 3 of the Complaint and accordingly denies the same.

PARTIES

4. Defendant is without information or knowledge sufficient to admit or deny the allegations contained in paragraph 4 of the Complaint and accordingly denies the same.
5. Admit.

FACTUAL ALLEGATIONS

6. Defendant is without information or knowledge sufficient to admit or deny the allegations contained in paragraph 6 of the Complaint and accordingly denies the same.
7. Defendant is without information or knowledge sufficient to admit or deny the allegations contained in paragraph 7 of the Complaint and accordingly denies the same.
8. Defendant is without information or knowledge sufficient to admit or deny the allegations contained in paragraph 8 of the Complaint and accordingly denies the same.
9. Defendant is without information or knowledge sufficient to admit or deny the allegations contained in paragraph 9 of the Complaint and accordingly denies the same.
10. Defendant is without information or knowledge sufficient to admit or deny the allegations contained in paragraph 10 of the Complaint and accordingly denies the same.

11. Defendant is without information or knowledge sufficient to admit or deny the allegations contained in paragraph 11 of the Complaint and accordingly denies the same.
12. Defendant is without information or knowledge sufficient to admit or deny the allegations contained in paragraph 12 of the Complaint and accordingly denies the same.
13. Defendant is without information or knowledge sufficient to admit or deny the allegations contained in paragraph 13 of the Complaint and accordingly denies the same.
14. Defendant is without information or knowledge sufficient to admit or deny the allegations contained in paragraph 14 of the Complaint and accordingly denies the same.
15. Defendant is without information or knowledge sufficient to admit or deny the allegations contained in paragraph 15 of the Complaint and accordingly denies the same.
16. Defendant denies that it engaged in illegal conduct. Defendant is without information or knowledge sufficient to admit or deny the remaining allegations contained in paragraph 16 of the Complaint and accordingly denies the same.
17. Defendant denies that it engaged in illegal conduct. Defendant is without information or knowledge sufficient to admit or deny the remaining allegations contained in paragraph 17 of the Complaint and accordingly denies the same.

18. Defendant denies that it engaged in illegal conduct. Defendant is without information or knowledge sufficient to admit or deny the remaining allegations contained in paragraph 18 of the Complaint and accordingly denies the same.

19. Defendant is without information or knowledge sufficient to admit or deny the allegations contained in paragraph 19 of the Complaint and accordingly denies the same.

20. Defendant denies that it engaged in illegal conduct. Defendant is without information or knowledge sufficient to admit or deny the remaining allegations contained in paragraph 20 of the Complaint and accordingly denies the same.

21. Defendant denies that it engaged in illegal conduct. Defendant is without information or knowledge sufficient to admit or deny the remaining allegations contained in paragraph 21 of the Complaint and accordingly denies the same.

22. Defendant is without information or knowledge sufficient to admit or deny the allegations contained in paragraph 22 of the Complaint and accordingly denies the same.

23. Admit.

24. Admit.

25. Admit

26. Admit

27. Admit.

28. Defendant denies that it engaged in illegal conduct. Defendant is without information or knowledge sufficient to admit or deny the remaining allegations contained in paragraph 28 of the Complaint and accordingly denies the same.
29. Defendant is without information or knowledge sufficient to admit or deny the allegations contained in paragraph 29 of the Complaint and accordingly denies the same.
30. Defendant is without information or knowledge sufficient to admit or deny the allegations contained in paragraph 30 of the Complaint and accordingly denies the same.
31. Defendant is without information or knowledge sufficient to admit or deny the allegations contained in paragraph 31 of the Complaint and accordingly denies the same.
32. Defendant denies that it engaged in illegal conduct. Defendant is without information or knowledge sufficient to admit or deny the remaining allegations contained in paragraph 32 of the Complaint and accordingly denies the same.
33. Defendant denies that it engaged in illegal conduct. Defendant is without information or knowledge sufficient to admit or deny the remaining allegations contained in paragraph 33 of the Complaint and accordingly denies the same.
34. Defendant denies that it engaged in illegal conduct. Defendant is without information or knowledge sufficient to admit or deny the remaining allegations contained in paragraph 34 of the Complaint and accordingly denies the same.

35. Defendant denies that it engaged in illegal conduct. Defendant is without information or knowledge sufficient to admit or deny the remaining allegations contained in paragraph 35 of the Complaint and accordingly denies the same.

36. Defendant denies that it engaged in illegal conduct. Defendant is without information or knowledge sufficient to admit or deny the remaining allegations contained in paragraph 36 of the Complaint and accordingly denies the same.

37. Defendant denies that it engaged in illegal conduct. Defendant is without information or knowledge sufficient to admit or deny the remaining allegations contained in paragraph 37 of the Complaint and accordingly denies the same.

38. Defendant denies that it engaged in illegal conduct. Defendant is without information or knowledge sufficient to admit or deny the remaining allegations contained in paragraph 38 of the Complaint and accordingly denies the same.

39. Defendant is without information or knowledge sufficient to admit or deny the allegations contained in paragraph 39 of the Complaint and accordingly denies the same.

40. Defendant is without information or knowledge sufficient to admit or deny the allegations contained in paragraph 40 of the Complaint and accordingly denies the same.

41. Defendant denies that it engaged in illegal conduct. Defendant is without information or knowledge sufficient to admit or deny the remaining allegations contained in paragraph 41 of the Complaint and accordingly denies the same.

42. Defendant denies that it engaged in illegal conduct. Defendant is without information or knowledge sufficient to admit or deny the remaining allegations contained in paragraph 42 of the Complaint and accordingly denies the same.

TRIAL BY JURY

43. Paragraph 43 of the Complaint does not require a separate response.

CAUSES OF ACTION

COUNT I.

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

15 U.S.C. § 1692 *et seq.*

44. Paragraph 44 of the Complaint does not require a separate response.

45. Deny.

46. Deny.

COUNT II.

VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT

47 U.S.C. § 227 *et seq.*

47. Paragraph 47 of the Complaint does not require a separate response.

48. Defendant denies that it engaged in illegal conduct. Defendant is without information or knowledge sufficient to admit or deny the remaining allegations contained in paragraph 48 of the Complaint and accordingly denies the same.

49. Deny.

50. Defendant denies that it engaged in illegal conduct. Defendant is without information or knowledge sufficient to admit or deny the remaining allegations contained in paragraph 50 of the Complaint and accordingly denies the same.

51. Defendant is without information or knowledge sufficient to admit or deny the allegations contained in paragraph 51 of the Complaint and accordingly denies the same.

52. Defendant is without information or knowledge sufficient to admit or deny the allegations contained in paragraph 52 of the Complaint and accordingly denies the same.

53. Defendant is without information or knowledge sufficient to admit or deny the allegations contained in paragraph 53 of the Complaint and accordingly denies the same.

54. Deny.

55. Deny.

56. Deny.

AFFIRMATIVE DEFENSES

1. Each cause of action in the Complaint fails to allege facts sufficient to constitute a cause of action against Defendant.
2. Plaintiff's Complaint is barred because Plaintiff did not suffer any damages and/or failed to mitigate its damages, if any.
3. Each cause of action in the Complaint is barred because the alleged injuries or damages were caused by the intentional acts of Plaintiff or third parties.

4. Each cause of action in the Complaint is barred because the alleged injuries or damages were caused by the negligent acts of Plaintiff or third parties, and the liability of all such parties should be apportioned according to the comparative fault of each responsible party.
5. The Complaint, as well as each and every alleged claim against Defendant, is barred by the applicable statutes of limitations.
6. Each case of action in the Complaint is barred by the doctrines of unclean hands, waiver, laches, estoppel and/or mistake and Plaintiff cannot recover in equity against Defendant.
7. Each cause of action in the Complaint is barred to the extent it is based upon any performance required by Defendant that was prevented by plaintiff.
8. Plaintiff's claims for violation of statutes are barred to the extent the application of the statute(s) would violate the United States Constitution.
9. All or some of Plaintiff's claims are barred because Plaintiff lacks standing to assert such claims against Defendant.
10. To the extent that Defendant engaged in any of the acts alleged in the Complaint, such acts were excused, justified and/or privileged.
11. The Complaint, as well as each and every alleged claim for relief against Defendant, is barred by Plaintiff's consent to the alleged acts and/or omissions.
12. Plaintiff's claims for punitive damages against Defendant are barred by the due process clause of the Fifth and Fourteenth Amendments to the United States Constitution, in that the standards for awarding punitive damages are vague,

fail to properly limit the discretion of the trier of fact as to the amount of punitive damages which may be awarded, and violate the requirement that punishable conduct must be defined and have the penalty therefore set prior to commission of the conduct. Defendant specifically incorporates by reference all standards of limitations regarding the determination and enforceability of punitive damage awards, including but not limited to, those standards of limitation which arose in *BMW of North America v. Gore*, 116 U.S. 1589 (1996); *Copper Industries, Inc. v. Leatherman Tool Group, Inc.*, 532 U.S. 424 (2001); and *State Farm Mutual Automobile Ins. Co. v. Campbell*, 538 U.S. 408 (2003).

13. Plaintiff's claims for punitive damages are barred, in whole or in part, because Defendant committed no act or omission that was malicious, oppressive, willful, wanton, reckless or grossly negligent.
14. Plaintiff's claims are barred because of Plaintiff's failure to join necessary and/or indispensable parties.
15. Defendant presently has insufficient knowledge or information on which to form a belief as to whether it may have additional, as yet unstated defenses available. Defendant reserves the right herein to amend its Answer to assert any additional defenses in the event discovery indicates that they would be appropriate.

JURY DEMAND

Defendant demands a trial by jury on all claims or issues herein.

WHEREFORE, Defendant prays:

1. That Plaintiff takes nothing by way of her Complaint against Defendant herein;
2. That Defendant be awarded judgment, costs of suit and attorneys' fees herein to the maximum extent allowed by law; and
3. For such other and further relief that this Court deems just and proper.

September 26, 2014

/s/Michael T. DeCourcy, Jr.
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